

June 19, 2006

Chairman Kevin Beal and Members of the Portland Planning Board
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Morrill's Crossing Site Plan, Subdivision and Traffic Permit Review

Dear Chair Beal and Members of the Portland Planning Board:

These comments on Morrill's Crossing, LLC's proposed Site Plan, Subdivision and Traffic Movement Permit applications, are submitted on behalf of the Morrill's Corner Neighborhood Association. The Association respectfully requests this Board decline approval of Morrill's Crossing, LLC's Site Plan, Subdivision, and Traffic Movement Permit Applications as deficient due to the unreasonable impacts this large-scale development will have on area residents in contravention to City ordinance standards. The application is deficient in the following ways:

**Expansion of the Boxing Facility Is Not Allowed
Under the Conditional Rezoning Agreement**

The applicant's proposed expansion of the boxing club is prohibited under the terms of the zone. The rezoning plan enacted by the City Council shows the total square footage of the boxing facility at 14,000 sq. ft. The applicant now proposes and asks this Board to expand the facility to 42,000 square feet.¹ Such an expansion is forbidden by the conditional rezoning agreement and the Portland City Code.

On November 30, 2004, the City, in approving the conditional rezoning agreement between the City and Packard, authorized amendment to its Zoning Map and City Code and the terms and conditions of the agreement became part of the City's zoning requirements. The terms of the rezoning agreement require that the property "be developed substantially in accordance with the Site Plan shown on Exhibit B (including the layout of the buildings...) and the architectural renderings shown on Exhibit D..." Exhibit B limits the expansion of the boxing facility to a total of 14,000 sq. ft., an increase of 10,000 square feet from the existing 4,000 sq. ft. building. Any increase in the square footage of the boxing facility requires the City Council to amend

¹ Portland Planning Board Report # 37-06, p. 21.

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the conditional rezoning agreement prior to site plan and subdivision approval, to avoid noncompliance with the City's Zoning Ordinance.

In any event, the applicant should not be allowed to amend the conditional rezoning agreement to increase the size of the boxing facility based on the City's continued concerns that on-site parking is inadequate for the facility at its current proposed size. As part of the conditional rezoning agreement, the applicant is required to limit the size of events to ticket sales of no more than 300, limit the days of the week that events are held "based on concerns of traffic conditions," and submit, as part of the site plan review process, an annual parking management plan to ensure that appropriate off-site parking is available to handle such large events. Not only has the applicant failed to submit any kind of off-site parking plan, the applicant now proposes to increase the overall size of the boxing facility by 28,000 square feet or three times the size approved by the City Council. A facility three times the size of the one approved by the rezoning agreement is inconsistent with the purposes of the Agreement and constitutes a violation of the City's Zoning Ordinance.

The Applicant's Parking Plan Will Not Provide Sufficient Parking

Allocated parking continues to be profoundly inadequate based on the persuasive guidance offered in City Parking Standards.² Under the Site Plan Standards, "the Planning Board shall establish the parking requirement" for "new structures having a total floor area in excess of 50,000 square feet."³ The proposed site location is at one of the busiest, most traveled corridors in Maine. The Planning Board should ensure adequate parking during peak hours by implementing the City Parking Standards set forth in § 14-332 of the City's Land Use Code:

- The applicant proposes only 43 total dwelling units, including apartments and town homes. Section 14-332(a) requires two parking spaces for each dwelling unit, plus one required additional parking space for every six units or fraction thereof. Under this formula, 94 parking spaces are required for the residential uses associated with Morrill's Crossing, well over twice the number of spaces proposed in the application.
- The applicant proposes 34 parking spaces for the 134,558 square foot recreational field.
- Bruno's Restaurant and its expansion will provide for 9,130 square feet of restaurant space. Section 14-332(i) requires that restaurants provide one parking space for each 150 square feet of floor area not used for bulk storage or food preparation. Assuming 1500 square feet would be used for bulk storage and food preparation, 51 parking spaces would be required for the restaurant use associated with Morrill's Crossing.
- The proposed Boxing Club expansion will provide for a 42,000 square foot boxing facility. While the applicant is required to submit an off-site parking plan to accommodate crowds associated with boxing match events, day-to-day parking needs

² Chapter 14 § 14-332 of the Portland Land Use Ordinance.

³ Chapter 14 § 14-526(a)(2)(b) of the Portland Land Use Ordinance.

must be met on-site.⁴ Section 14-332(v) requires that private clubs⁵ provide one parking space for each 150 square feet of floor area. Under this standard, 280 parking spaces would be required for the private club uses associated with the Morrill's Corner development.

If all the City's Parking Standards are met for the non-retail uses, 459 parking spaces are required to accommodate the apartments, town homes, recreation field, restaurant, and boxing facility. The applicant proposes 666 parking spaces for the entire Morrill's Crossing development (including the proposed retail stores).

Thus, if all the City's Parking Standards are met for the above non-retail uses, the remaining number of spaces available for the 129,586 square feet of total retail space would be 207 spaces (666 total parking spaces – 459 parking spaces required for the non-retail portions of the development = 207 spaces available for retail parking). The parking space ratio for the retail portions of the development would then be one parking space for each 626 sq. ft. of retail use. Section 14-332(h) requires retail uses to provide one parking space for each 200 sq. ft. of first floor area in excess of two thousand square feet not used for bulk storage and one parking space for each 700 sq. ft. for each floor above the first floor not used for bulk storage. The proposed Morrill's Crossing development fails to provide for anywhere near adequate parking, in accordance with the City's own standards. Having so few parking spaces will only further compromise off-site traffic safety, and further impact the surrounding neighborhood, which inevitably will have to contend with greater traffic and parking. Please see Attachment 1, Morrill's Crossing Parking Plan Analysis for more information.

The proposed Morrill's Crossing number of parking spaces falls well short of the number of parking spaces the City has required for comparable development. According to Site Plans on file with the City, area stores including Somerset Marketplace, Hannaford at Riverside, Hannaford at Back Bay, and Shaw's at Northgate have all provided parking spaces in excess of the **1 parking space to 200 sq. ft. retail space ratio indicated in the City's Parking Ordinance while the proposed Morrill's Crossing Development falls seriously short of the ratio, at a ratio of 1 parking space to every 626 feet.** Moreover, the Morrill's Crossing site can be expected to have to accommodate even more traffic than these other stores based on the large scale of the development and the store's location at one of Maine's busiest intersections. Please see Attachment 2, Area Portland Grocery Store/Retail Development Parking Space Comparison.

The Development Will Cause Unreasonable Road Congestion And Unsafe Traffic Conditions

The development will result in at least 8 unsignalized intersections operating at Service Level of F. Additionally, unsafe traffic conditions, including high crash locations, will persist or

⁴ According to the Conditional Rezoning Agreement, "parking for daily use and for normal boxing club events shall be met onsite." p. 5.

⁵ LifeStyles Fitness, located on Warren Avenue, also used this standard, according to their March 2004 Site Plan.

worsen as a result of this development. One example is Allen's Corner at the intersection of Washington Avenue and Allen Avenue. Since completion of MDOT roadway improvements in June of 2004, there have been 18 reported collisions at the intersection of Washington Avenue and Allen Avenue.⁶ There were 37 collisions at this intersection between January 2002 and December 2004, an average of 1.03 accidents per month. The 18 reported collisions between June 2004 and February 2006 averages .86 accidents per month, making for a minuscule .17 accident per month reduction in the number of accidents. The additional traffic associated with this proposed project will further degrade this intersection, effectively making the MDOT improvements useless.

Tom Errico, PE, the City's reviewing Traffic Engineer for this proposal noted, "...the data does indicate that significant crashes are occurring at this busy location, even when considering the recent Maine DOT improvement project... To ensure that the project improves or does not exacerbate safety conditions at Morrill's Crossing, I would suggest that the applicant conduct a post-occupancy safety study confirming the safety benefits of their off-site mitigation plan. If crash rates and patterns indicate existing problems either persist or have been exacerbated by the project, I would recommend that the applicant identify and implement other improvement strategies, as reasonable and appropriate, to be approved by the City."

The applicant has been unable to identify any other improvement strategies to date, even theoretical off-site mitigation. If the Board were to accept Mr. Errico's suggestion to consider a "post-occupancy" safety study with follow-up off-site mitigation, it should at least require the applicant to specify what off-site mitigation would be possible, in the event there are safety problems. If no such mitigation can be described now, then the "egg will already be broken" and the neighborhood will have no recourse but to live with unsafe conditions. The applicant has the burden to "prove" that there will be no undue adverse traffic and safety impact: the standard does not allow approval based on a "wait and see" approach, with no identified mitigation strategy in place.

Noise Continues To Be a Concern For Neighbors And City Officials

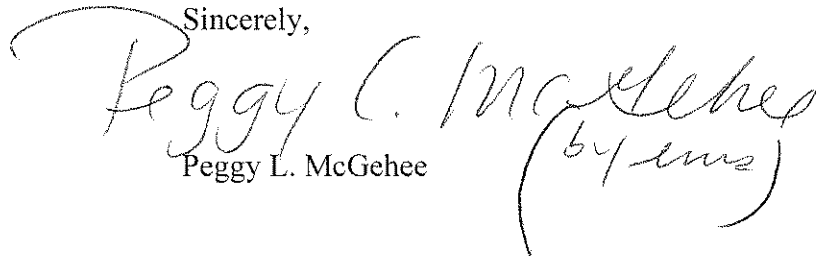
Concerns about noise from the development continue to be a concern for neighbors and the City's peer reviewer. A noise study was conducted by the applicant and reviewed by the Zoning Administrator and a Peer Noise Consultant Reviewer. Based on their concerns, the applicant was required to amend the site plan to include an acoustical barricade. To date, the City has not received a peer review of the updated noise study.

⁶ 4/20/06 ltr. from VHB to Sarah Hopkins, p. 3.

The above listed deficiencies make clear that the proposed Morrill's Crossing "super center" is a high impact development that, if allowed to move forward, will result in increased traffic congestion and delays, parking shortages, and unsafe traffic conditions for area residents. In addition to the points made in this letter, the Neighborhood Association continues to assert those points made in its earlier letters to the Board, and in Mr. Tom Johnson's letters to the Board, that have not yet been addressed by the applicant, including such issues as substandard sidewalk width, the loss of Forest Avenue parking, the unresolved question where abutting property lines are located, the impact on residents streets not being able to turn left from their streets onto Forest Avenue, and the inadequate geographic scope of the study areas.

Thank you for your consideration of the observations set forth in this letter and its attachments.

Sincerely,


Peggy L. McGehee
(by ems)

Enclosure

cc: Natalie Burns, Esq.
Sarah Hopkins
Morrill's Corner Neighborhood Association

Morrill's Crossing Parking Plan Analysis

- o Allocated Parking For Retail Space, Assuming All City Parking Standards (City of Portland Code of Ordinances, Land Use Chapter 14 § 14-332) Are Met For Non-Retail Uses

| Non-Retail Uses | | Structure Area (square feet)/Number of Units | Parking Spaces Suggested by City Code of Ordinances |
|------------------------------------|--------------------------------|--|--|
| Residential Use¹ | 11 Apartments (above Retail B) | 43 total residential units | 94 |
| | 12 Apartments | | |
| | 20 Town Homes | | |
| Recreation Use² | Multi-Purpose Field | 134,558 | 34 |
| Restaurants³ | Bruno's Restaurant | 9,130 (includes 455 ft expansion) | 51 |
| Private Club⁴ | Boxing Club | 42,000 | 280 |
| TOTAL Non-Retail Space | | 185,688 and 43 dwelling units | 459 spaces required if all City Parking Standards are met |
| Retail Use⁵ | Retail A, B, C & D | 63,765 | 666 Spaces are proposed for the entire Morrill's Crossing Development. If all City Standards are met for the above non-retail uses, the remaining number of spaces available for 129,586 square feet of retail space would be 207 spaces (666-459= 207). Thus, the parking space to area ratio would be 1 space for every 635 square feet. The City Standard for Retail Structures is 1 space for every 200 square feet. |
| | Supermarket 1st Floor | 65,821 | |
| TOTAL Retail Space | | 129,586 | |

¹ Section 14-332 (a) states that for new construction, two parking spaces for each dwelling unit is required, plus one additional parking space for every six units or fraction thereof.

² Section 14-332. Uses requiring off-street parking, did not stipulate a standard for a recreational field. Thus, the number of spaces used for this table were those depicted on VHB's 6/6/06 Site Plan.

³ Section 14-332 (i) states that restaurants must provide one parking space for each one hundred fifty square feet of floor area not used for bulk storage or food preparation. When calculating the number of spaces required for Bruno's Restaurant, it was assumed that 1500 square feet would be used for storage and food preparation.

⁴ Section 14-332 (v) states that one parking space for each one hundred fifty square feet of floor area is required for private clubs. This standard was used to determine the number of required spaces for the proposed boxing club, which totaled 284. (LifeStyles Fitness located on Warren Avenue also used this standard, according to their March 2004 Site Plan).

⁵ Section 14-332 (h) (standard for Retail Stores) states that one parking space is required for each two hundred square feet of first floor area in excess of two thousand square feet not used for bulk storage and one parking space for each seven hundred square feet for each floor above the first floor not used for bulk storage.

Area Portland Grocery Store/Retail Development Parking Space Comparison

| <i>Retail Development</i> | <i>Building Area (square feet)</i> | <i>Parking Spaces City Ordinance Guideline¹</i> | <i>Parking Spaces Proposed/Provided</i> | <i>Parking Space to Retail Area Ratio (1: 200 square feet City Ordinance Guideline)</i> |
|---|------------------------------------|--|--|---|
| Somerset Marketplace | 45,268 | NONE ² | 239- Better than ordinance standard | <u>1:189 sq. ft.-</u> Better than standard |
| Hannaford at Riverside | 36,000 | 180 | 195- Better than ordinance standard | <u>1: 184 sq. ft.-</u> Better than standard |
| Hannaford at Back Bay | 88,770 | 420 | 462- Better than ordinance standard | <u>1: 192 sq. ft.-</u> Better than standard |
| Shaw's at Northgate | 120,496 | 602 | 641- Better than ordinance standard | <u>1: 187 sq. ft.-</u> Better than standard |
| Morrill's Crossing: Proposed Grocery and Retail Stores | 129,586³ | 647 | 207⁴- Less than ordinance standard | <u>1: 626 sq. ft.-</u> Less than standard |

¹ City of Portland Code of Ordinances, Land Use Chapter 14, Section 14-332 (h) (Retail Stores) requires one parking space for each two hundred square feet of first floor area in excess of two thousand square feet not used for bulk storage, and one parking space for each seven hundred square feet, for each floor above the first floor not used for bulk storage.

² Somerset Marketplace is located in City Zone B-7, which does not require parking.

³ The 129,586 square feet of building area includes Retail stores A, B, C, and D and the ground floor of the Supermarket. Not included in this figure is the 5,624 square foot Mezzanine located in the Supermarket. According to City Standards, the Mezzanine would require 8 additional parking spaces.

⁴ If all the City's Parking Standards are met for the non-retail uses (apartments and town homes, recreational field, restaurant, and private boxing facility), the remaining number of spaces available for the 129,586 square feet of total retail space would be 207 spaces (666 total parking spaces proposed – 459 parking spaces required for the non-retail portions of the development = 207 spaces available for retail parking). Thus, the parking space ratio for the retail portions of the development would be one parking space for each 626 square feet of retail use. Section 14-332(h) requires retail uses to provide one parking space for each 200 square feet of first floor area in excess of two thousand square feet not used for bulk storage and one parking space for each seven hundred square feet for each floor above the first floor not used for bulk storage. Thus, the Morrill's Crossing Development fails to provide for adequate parking under the City's Parking Ordinance standards.